UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,598	01/17/2007	Lothar Pasch	251102-1050	8791

24504 7590 05/12/2009

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

EXAMINER	
SMITH, PRESTON	
ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
05/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/585,598	PASCH, LOTHAR	
	Examiner	Art Unit	
	PRESTON SMITH	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17 and 20-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17 and 20-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 July 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4,6-10,12-15,20-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Johan Benier, US-Patent 4,555,226 in view of Frank J. Herrera, US-Patent 3,883,283.

Regarding claims 1,3,9-10, Benier teaches a dough rolling apparatus comprising a conveyor (2), rolling out station (3), and rolling up station (4) in Fig 2. The

roller rolls flattens the dough ball into "elongated" strips of dough and the roll up station rolls the "elongated" strips into "elongated" spirals or rolls.

Benier fails to teach a "supply" adapted for joint discharge of at least two adjacent dough balls which is used to supply the dough balls to the roller (3).

Herrera teaches that it is well known to allow multiple dough products to be transported on a "supply" (the conveyor system shown at 18 in Fig 1. The conveyor belt (seen at 18) would be the distributor since it is facilitating the distribution of the dough balls) and through a chute (37 of Fig 1) or "buffer" and through a roller system in order to flatten the dough product. It would have been obvious to one having ordinary skill in the art at the time of the invention to add this feature to the invention of Benier since this feature would ensure a continuous supply of dough to the roller system of Benier and eliminate the need to manually place the dough balls onto the apparatus of Benier. Also, the chute would serve to reduce clogging in the roller system of Benier.

Additionally in light of Herrera, one would have found it obvious to discharge multiple dough balls adjacent to one another (Fig 1 of Herrera shows several dough products being conveyed off of the "supply" adjacent or next to one another (see 19 and the 19 vertically placed from it) from the "supply" since this configuration would permit for the most efficient and speedy dough roll up process (the dough balls would be supplied in a continuous "chain" of dough off of the conveyor of the "supply").

Regarding claim 2, one of ordinary skill would have found it obvious to "adapt" the composite invention of Benier in view of Herrera such that the "supply" of Herrera

would be in "mutual adjustment" with the invention of Benier since this would ensure the most efficient delivery of dough balls. There would also have to be an area (transverse or area across from) between the "supply" of Herrera and the invention of Benier in order for the dough to be transported from the "supply" to the invention of Benier in the composite invention and thus one would have found this limitation obvious.

Regarding claim 4, the references do not clearly teach discharging two dough balls at the same time however the "supply" is capable of discharging two dough balls at the same time in the composite invention and this adjustment would result in the production of a longer strand of dough per unit time. This would thus result in a larger or thicker dough roll or spiral in the composite invention since more dough would have to be rolled. It would have thus been obvious to one having ordinary skill in the art to discharge two dough balls at the same time in the composite invention in order to produce thicker or larger rolls or spirals.

Regarding claim 6, the references fail to teach moving the two flattened dough balls close to each other as they are being process however moving the flattened dough balls closer to each other would allow for more dough balls to be processed per unit time since they would cover less of the area of the apparatus of the composite invention and thus one of ordinary skill would have found this adjustment obvious.

Regarding claims 7, the references fail to teach moving two dough balls close to each other so that when they're flattened they form a single piece of dough however one of ordinary skill in the art seeking to make a thicker or longer dough flattened portion would have found it advantageous to move the dough balls closer to each other so that when they are flattened, the dough forms into a single strand. Also, making the flattened dough in this manner would reduce the stress on the roller since it wouldn't have to flattened one large dough ball but instead have to flattened two smaller ones in order to form a longer dough strand.

Regarding claims 8, the references discussed previously fail to discuss the dough balls being spaced from one another such that the distance between them is larger than the distance between a dough ball and the roller however one of ordinary skill in the art would have found it obvious to space a dough ball farther from an adjacent dough ball with respect to the roller since this would minimize the chance the two adjacent dough balls are rolled together at the same time if one of ordinary skill wanted to roll just one dough ball into a roll at a time.

Regarding claims 12-15, the references do not teach a dough ball diameter, dough slab thickness, dough slab width, and dough roll length however all of these parameters would depend on how large one of ordinary skill in the art desired the dough product to be. It is thus considered that discovering the claimed ranges for the

parameters of the claims would have been obvious and discoverable through routine experimentation.

Regarding claim 20, the limitation describe would have been obvious for reasons stated in examiners address of claims 2 and 7 and examiners address claim 8 above.

Regarding claim 21-22, the limitation describe would have been obvious for reasons stated in examiners address of claims 2 and 7 and examiners address of claims 1,3,9-10 above.

Regarding claim 23-24, the limitation describe would have been obvious for reasons stated in examiners address of claims 2 and 7 and examiners address of claims 12-15.

Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Johan Benier, US-Patent 4,555,226 in view of Frank J. Herrera, US-Patent 3,883,283 and Francis Frederick Hansen, US-Patent 2,677,334.

Regarding claim 5 and 11, Benier teaches the device for rolling up the dough up however neither of the references teach a "roll-out" or molding device placed after the rolling up device for lengthening the roll of the dough.

Hansen teaches that it was well known in the art to pass rolled dough products under a pressure board to lengthen the roll (column 1, lines 5-15). It would have been obvious to combine this feature with the apparatus of Benier since this additional feature would serve to enhance the adhesion of the spiral or roll structure since it would press the roll or spiral down after it has been formed and force the inner layers to better form together.

Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Johan Benier, US-Patent 4,555,226 in view of Frank J. Herrera, US-Patent 3,883,283 and Masahiro Yonemaru, US-Patent 6,117,472.

Regarding claim 16, the references teach the creation of the claimed dough product according to claim 6 however the references fail to teach using the dough product to form a so called baguette.

Yonemaru teaches that it is well known in the art to use dough products to form baguette with the invention of Yonemaru (column 6, line 11). It would have been obvious to one having ordinary skill in the art to use the invention of Yonemaru to form baguette from the dough formed in the invention of Benier since baguettes are highly desirable food products and using the dough to make this product would enhance the profitability of the invention of Benier.

Claim 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Johan Benier, US-Patent 4,555,226 in view of Frank J. Herrera, US-Patent 3,883,283 and Hajme Akashi, US-Patent 5,989,617.

Regarding claim 17, the references teach the method of forming the dough product as mentioned previously however the references fail to teach the dough being made from wheat flour.

Akashi teaches that it was well known in the art to make dough balls out of wheat flour (column 5, line 37). It would have been obvious to one having ordinary skill in the art at the time of the invention use wheat flour in the specific dough since wheat flour has several health boosting properties that would desirable to many consumers.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRESTON SMITH whose telephone number is (571)270-7084. The examiner can normally be reached on Mon-Th 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Drew E Becker/
Primary Examiner, Art Unit 1794

prs